pired, which was on last Friday night. The Legislature was not then in session and will not be in session until to-night: so I could take no action regarding the matter until the Senate convened.

The Governor said he was deeply concerned for the welfare of the people and anxious to do everything to promote their happiness and prosperity. He had, he said, investigated every phase of the subway problem. He went

As a public servant, I am always reluctant to criticise public officials and will not do so now, although I must say that I am not in sympathy with the interminable delays which have marked the progress of the subway situation in greater New York. The people want things done openly, and honestly, and quickly and fearlessly.

openiy, and honestly, and quickly and fearlessly.

Knowing what I do, my mind is made up to appoint a successor to Mr. Willeox. I'p to this time I have endeavored not to commit myself in the matter directly of indirectly, as I believed the Governor should live up to the principle of home rule and not interfere with matters in the City of New York unless something official and tangible was presented to him upon which to act.

"Thousands of Applications."

The Governor declared he had thousands of applications for this position, but believed it should seek the man.

To select the right man was no easy matter. In the conflict of opinion I de-ermined to name a man of such high haracter, of such pre-eminent ability, of such established reputation for im-surtiality, that the people would say Well done. Governor," and commend me for meeting the acuteness of the situa-tion in the broadest way it possibly ould be met for the general welfare by me in authority.

could be met for the general wender one in authority.

In selecting Justice McCali for the office I want to tell the people just how and why the selection was made. I have known him since we were law students, and our personal relations for thirty odd years have been intimate. He is a man for whom I have the greatest respect and the highest regard. No one can question his ability as a lawyer, his worth and impartiality as a justice of the Supreme Court of our state and his determination always to do what he believes to be just and right for the public good. He is my lifelong friend. In him I have the most implicit confidence, lie is big enough for any office in our country.

to give up his comfortable berth and considered to the judges of the course of peeds with him, but he then told me, be could not convince myself reserving. The matter was of such grave importance to the people at a position with a performance to the people to the people at the public good. So last Saturday afternoon to go to New Yorks Saturday afternoon to go to New Yorks

No One Else Knew, He Says.

No one knew of Justice McCall's intended appointment by me except him and myself, when we finally settled the matter at his house in the City of New York last Saturday declared the Governor. hopeful of this appointment-hopeful hopeful of this appointment—hopeful for the best interests of all the people. At all events, Gods knows, I have done my duty as I have the light. I want to thank Judge McCall publicly for his self-sacrifice and his patriotism in the matter, and I confidently believe that whatever he does in the premises hereafter will be for the general welfare."

show of indignation, that there was no undue haste in the confirmation, as McCall was a state officer "filling his office with honor and distinction." He right to choose—for they and their children will pay the price for many years to come, If it is true, as you suggest, that the great mass of the people want these contracts approved. It is Senator Wagner asserted he never had heard a word of it before. He declared the recent conferences of the public Service Commission, the tran-

In reply to an editorial published Sat-urday night in one of the New York evenurday night in one of the New York evening papers. I want to say in justice to William F. Sheehan that he never spoke to me directly or indirectly about the Public Service Commission in greater New York or the proposed subway operating contracts. I have only seen Governor Sheehan once since the first of the year and then he called to see me here at the executive chamber, just as he hurried by, to pay his respects, and he was in such a nurry he would not even respond to my invitation to sit down.

In conclusion, I say to the people of New York City: "I have done my duty in this matter to all the people of greater New York and I sincerely hope what I have done will meet with the approval of the galled with the same time glorified that organization. He said he was a member of the committee which selected McCall for the

In connection with the appointment tion therewith. Frawley went on: of Hodson to the upstate commission. of Hodson to the upstate commission.
If there had been any scandal Justice McCall would not have been elected, and chosen largely on the indersement of my memory is that he headed the judicial chosen largely on the indorsement of

salary of \$6,200, is a lawyer, and for- yet. merly was chairman of the Monroe

County Democratic Committee.

Republicans Fight Appointment. 9:20 they filed out to their seats, and morrow." after a few minutes of routine business the Governor's nomination of Justice McCall was read. Senator "Jack" Fitzpatrick, "Big Tim" Sullivan's successor, asked for immediate confirmation of the appointment. He said the people of the state should be congratu- ing and seemed anxious about the con- cases which were awaiting his signature. lated that Justice McCall had accepted

the place. Senator Elon R. Brown, Republican debate, leader, protested against this haste. He said it was making the Senate "merely a vermiform appendix of the govern- Committee. ment, utterly useless," since it gave that body no chance to exercise its powers of deliberation on important

appointments. He added: Will Rally at Cooper Union.

Why, the printed interviews in which the Governor expresses his opinion of this appointment have not even yet reached the newspapers, and we have to get what information we can regarding him while the Democrats are in caucus. It was said the Public Service Commission would be degraded into a partisan body and be used eventually to serve special interests.

This is not the first appointment to the Public Service Commission under a Democratic administration. We have seen another Governor appoint the Democratic state chairman to fill this high office, or rather to draw the salary, for it was well

SEE McCALL FOR MAYOR AS MURPHY'S REAL PLAN

Polititians Believe Tammany's Inducement to Jurist to Leave Bench Included Promise of Nomination Next Fall.

tien that was agitating the minds of race for the Mayoralty. many last night.

last night.

sioner it will be only \$15,000 a year. to sign the contracts? preme Court had four more years to Call will have an opportunity of showrun and a renomination and re-election | ing his strength with the people. If he are practically assured to Democratic should prove a popular man there he

to give up his comfortable berth and Mayor."

What inducement was offered to Ed- phy," said the politician, speaking of ward Everett McCall sufficiently com- the leader of Tammany Hall. "Nor do pelling to induce him to leave the I know just what arguments were used Supreme Court bench to accept the by Governor Sulzer in talking with HIS MIND OPEN, HE SAYS chairmanship of the Public Service Judge McCall. However, I believe that Commission? This was the live ques- the plan is to enter the latter in the

A nomination for Mayor on the Tam- candidate who has been prominent in many ticket this fall. That was an some live issue. It is likely that the answer given by an organization man fusion forces will nominate District Attorney Whitman or Borough Presi-Mr. McCall, for he ceased to be dent McAneny. On the bench Judge ustice when his resignation was placed McCall was in obscurity. To bring in the hands of Governor Sulzer last him out and put him in as chairman night, and he does not become Public of the Public Service Commission at Service Commissioner until his oath of a time when the important contracts office is filed, acknowledged yesterday for the dual transit system are about that his work on the bench was most to be signed, to my mind, is a shrewd agreeable to him. He declared when piece of politics. No doubt an effort the appointment to the Public Service will be made to place him in the po-Commission was first broached to him sition of being responsible for pushthat he would not consider it for a mo- ing the contracts through after the sending it to the Finance Committee came ment, and that he wanted to spend the long period of negotiation, which made remainder of his active life as a judge. the public impatient. Otherwise, why His salary on the bench was \$17,500 did not Governor Sulzer permit Chaira year. As a Public Service Commis- man Willcox to hold over long enough

"As head of the commission Mr. Mc would probably prove the strongest Why, then, did Mr. McCall consent candidate Tammany could name for

accept a position with which he has no It was suggested last night that

The suggestion made by you that discovery of grounds of objection to this appointment. I cannot say on my oath of office that objections exist, but I can say that the air is full of rumors of his connection with Tammeny Hall and other rumors of a scandal concerning his nomination to the Supreme Court. I can't say how just these rumors are, and we have no opportunity to find out, for the matter has been decreed in caucus before a Senator has a chance even to visit a department in the Capitol to search for information. But the people will know where to place the responsibility.

Senator Wagner retorted with great

Senator Wagner retorted, with great show of indignation, that there was no if

Public Service Commission, the tran-Regarding Charles F. Murphy and sit and financial interests had been William F. Sheehan, Governor Sulzer held in the homes of Chairman Will-Let me say now that Mr. Murphy made no recommendation to me directly or indirectly of any applicant or any candidate for this office. cox and J. Pierpont Morgan and thereued:

and I sincerely hope what I He said he was a member of the comhave done will meet with the approval of my fellow citizens generally and ultimately redound to their credit and their judicial nomination and he resented welfare and their prosperity." any imputations of scandal in connec-

chosen largely on the indorsement of Edward H. Butler, a Republican, and editor of "The Buffalo News." On the recommendation of the present upstate commission Butler is being sued for a long standing electric light bill of large size. Hodson is a lawyer and former municipal court judge of Buffalo.

Milton H. Gibbs, named as a Hospital Commissioner, at an annual salary of \$6,290, is a lawyer, and for-

"When Mr. McCall takes office." promised Senator Wagner, "these conferences won't be held in Mr. Morgan's As soon as the Senate convened to- back room, but in public, where they night Mr. Wagner, Tammany leader, should be held! These attempts to dedemanded a rollcall, to see how many lay confirmation are merely so that the Supreme Court was to sign a demurrer of his men were present. That having contracts may be jammed through in cotton brokers, in the suit brought against been determined, the Senate at his re- this same back room, and we will not them by Morris H. Rothschild. The suit quest took a long recess while the give anybody a chance to call up any- is for an accounting in the sale of cot-Democrats in conference planned the body in that room to determine if con- ton bales weighing 2.800,000 pounds fight which he knew was coming. At firmation shall be made to-night or to- were said to have been intrusted to Moyse

Thereupon the vote was taken and Mr. McCali was formally placed in the with them which was in restraint of trade. seat of Chairman Willcox.

John C. McCall, vice-president of the New York Life Insurance Company, defence. In addition the justice signed was here to see the Governor this even-orders in the course of the day in 1,750 firmation, Justice McCall's secretary was in the Senate chamber during the of the city under the prevailing rate of

The Hodson and Gibbs appointments received were referred to the Senate Finance

WANTS VOTE ON SUBWAYS People's Institute Would Delay

DIX REJECTED HODSON Buffalo Man Long Sought the

Upstate Commissionership. [By Telegraph to The Tribune.] Buffalo, Feb. 3.—Devoe P. Hodson, the

new member of the Upstate Public Serv ice Commission, came to Buffalo to practise law in 1889 and became useful to the Democrats as a campaign orator on local issues. He secured no reward, however, until 1906, when he was nominated and elected judge of the Municipal Court. That place he held until 1912, when the court was abolished. He was also at one time a member of the Board of School Examiners at \$500 a year

Mr. Hodson was born in Ithaca in 1866. was graduated from Cornell and admitted to the bar in 1877. He practised law in Ithaca for ten years and then, with another man, went to San Diego, Cal., to publish a newspaper. After a few months, however, Mr. Hodson returned to Buffalo and resumed the practice of law

Mr. Hodson was strongly urged for the post he has won when Commissioner Olmsted's term expired in Governor Dix's administration. A Buffalo legal representative of the New York Central and a college classmate of Dix nearly landed it for Hodson, but Fitzpatrick, the western New York boss, interfered.

M'CALL BUSY ON LAST DAY

Decides 1,750 Cases Just Be-

fore Resigning from Bench. One of the last official acts of Justice & Co. as agents.

In their answer Moyse & Co. alleged and therefore illegal. Justice McCall decided, however, that this was not a valid They were all suits brought by employes wages law, claiming the plaintiffs were entitled to higher salaries than those they

One of the cases, decided adversely several months ago, covered all the others and the justice spent most of the day dismissing them with a few strokes of his

WILL RALLY AT COOPER UNION.

M'CALL LIKELY TO SIGN CONTRACTS

Friends of Dual System Fear Only That Companies May Cause Delay by Starting New Controversies.

Willcox Congratulates Successor, as He and Other P. S. C. Members Consider Amount B. R. T. Ought to Pay in Queens.

Word that Governor Sulzer had appointed Justice Edward E. McCall, of the Supreme Court, to succeed Chairman Willcox as a member of the Public Service Commission apparently came as a great surprise to all who had been interested in framing the contracts for the appointment had been confirmed by the Senate last night without the formality of

Most of the city officials working on the contracts were of the belief that the onfirmation would be held up a reasonable length of time in order to permit the important contracts to which Chair-Governor in supplanting Chairman Willcox at so untimely a moment was comable, to say the least. Mr. McCall is to be designated as chairman by the Gov soon as he can file his oath of office

Travis H. Whitney, secretary of night, rushing the work there, and the Interborough contracts were being sent not jackass enough to try to get any to the conference at the home of Chair- credit for simply signing my name to momentous problems awaiting sofution in

Chairman Willcox sent the following prepare.

of office. "But," he added, "I do not ex- to him. The king is dead. Long live the king." walked in on him at his home here.

Mayor Gaynor sent word from his office "He presented his demand that I a

Board of Estimate took the same attitude. "He said I had been honored by election and I will not delay a moment longer commented President Mitchel, of the to accept this place and that it was my Board of Aldermen. "I am willing to trust | duty to accept it." my point of view to any new man whose

McAneny Promises Co-operation.

Borough President McAneny said the new chairman could count on the hearti- the insistence that you accept the apest co-operation of the transit committee of the Board of Estimate.

Commissioner G. V. S. Williams said: "Outside of my friend Willcox I know of no other man whom I would rather see in this office than Justice McCail."

"My mind is entirely open on this enir. proposition," declared Justice McCall from taking a political appointment. in the afternoon, "Indeed, it is more than that, it is a blank. I have not the slightest knowledge of the points involved in these contracts other than what resignation from the Supreme Court to pay anything at all it should be of what the papers have printed."

In general Justice McCall said he had never weighed in his mind any of the broad questions of municipal operation, as well as ownership, or of municipal construction entirely as opposed to taking in some private capital for construction. There had never been a case before him involving the Public Service law and he had never read it until he looked into wish. In general Justice McCall said he had

first, as is customary,

"I hope the cup will pass from my was the way he expressed it. "However, if it becomes my duty to consider these contracts, I shall do it conscientiously. If it becomes necessary for me to sign the contracts I shall not do it until after I have thoroughly digested and analyzed them and am satisfied that they are in the best interests of the city.

Haste Would Mean Incapacity. "Any man who signed such contracts

without due consideration would by that act show his incapacity to fill the office. When Justice McCall returned to his a man at once." period for consideration of the contracts,

"Til not ask any time. I'll take time.
I will study them and when I have finished with that study will report my attitude to my colleagues."

The Senate has just confirmed your appointment as chairman of the Public Service Commission of the 1st District. Congratulations. Letter follows. tude to my colleagues.'

Justice McCall said he was not looking for any credit that might come from in the appointment and hoped everybody signing the contracts. "Considering this was as pleased as he. as man to man," he added, "I hope I am The justice said he wanted to make it

HUGHES INVESTIGATION INVOLVED JUSTICE M'CALL

Insurance Inquiry Revealed Transactions with His Brother and "Andy" Hamilton in N. Y. Life Suit.

Justice Edward Everett McCall is a largument for reasonable compensation?

A.—Well, frankly, Mr. Hughes, the New York Life did not care to appear as the Plaintiff in the transaction.

Q.—Now, did the Provident Life pay for the services rendered to it? A.—That I don't know.

Q.—Now, as the result of the winning of that case, there was a rebate, to which the company was entitled, of \$72,703?

A.—Yes.

Q.—And under this agreement Judge Hamilton was entitled to one-third, or something like \$90,000? A.—Yes, that is a summary of it

of the Hughes investigation. In 1901 a law was passed taxing all life insurance companies for the first time on their premium receipts. John A. McCall no right to tax a contract made prior to the passage of the act and it was decided to bring suit.

In his testimony before the legislative investigating committee, John A. M. Coll.

evestigating committee John A. McCall

I didn't care to act as the—for the New York Life—didn't care to act as the party in the suit, and so the Provident Savings, of this city, was made the complainant party. The case was carried to the Court of Appeals of New York and decided in Getober, 1904, and Judge ('Andy') Hamilton won the suit. It made a difference of one milion dollars to the three great companies of New York in the matter of taxation. We agreed with him—the New York Life did, at least—that we should give him one-third of the recovery made from the decision in the event the decision was favorable, and he should have no fee whatever in case he lost his suit.

Same Arrangement with McCall.

The proceedings continued:

Q. (by Hughes) The litigation was started in 1962, was it not? A. I think that Q. In other words, proceedings were be- di

that contracts made before the passage of the act were not subject to this tax? A. Yes.

Q. Who was the attorney at the beginning of that proceeding? A. I think Mr. that \$59,000 paid by J. P. Morgan & Co. Out. of the profits of a transaction in

A—No, sir.

Q—And the record was a short one?

A—Yes; not very long. I think:

Q.—Now, can you explain why it would not have been appropriate for the New York Life Insurance Company to employ one of its counsel upon the usual terms to bring the proceeding and make the is \$15,000.

summary of it
Q.—Did you make any inquiry as to
what that litigation could be conducted
for? A.—No.

Q.—Judge Hamilton at that time was, of

Q.—Now, on November 13, 1901, there appears to be a note made for \$1,090 by Edward E. McCall, to your order and indorsed by you—what was that for? A.—Edward E. McCall made his note and I indorsed it, or several notes—three, I think—aggregating about \$10,090.

Q.—Here are two with the Central Bank, one for \$1,090 and the other for \$2,090, made by Edward E. McCall to your order and indorsed by you. Who got the money? A.—Andrew Hamilton.

I don't know.

Q. When did Mr. McCall become a Supreme Court Justice. A.—I think he was elected in 1992.

Q. I asked you when you were on the stand before whether the New York Life.

nd before whether the New Jork Line tributed directly or indirectly to the enses of Judge McCall's campaign. It never didfi not one ha'penny. I myself personally —But none of these notes represents thing of that kind? A —No. Q.—But none of these notes represents anything of that kind? A.—No.

Edward E. McCall.

Q-Did you have any contingent arrangement with him? A-Yes.

Q-The same contingent arrangement?
A-It was the same thing. After he went on the bench Judge Hamilton took his interest in it.

Q-So that the original arrangement was made with Judge McCall when he was a solicitor? A-Yes, and Judge Hamilton: they acted together in the case.

Q—And in 1903 it was before the Abpellate Division, which confirmed the decision below against the company? A—That is right.

Q—Up to that time Judge Hamilton had nothing to do with it, so far as his appearance in the case before the courts is concerned? A—I think not.

Q—The argument was not a very extended one, was it? A—Well, I read the brief in the cases. I thought they were very thoroughly tried.

Q—There was no evidence in the case? A—No, sir.

I was a short one?

Vire Insurance Company to Winnam I. Buckley, the Albany lobbyist. The statement was accepted by Superintendent Hotchkiss. Buckley borrowed the money to meet a loan.

Edward E. McCall was born at Albany in January, 1863. The McCall family received a great deal of money from the New York Life Insurance Company to Winnam I. Buckley, the Albany lobbyist. The statement was accepted by Superintendent Hotchkiss. Buckley borrowed the money in January, 1863. The McCall family received a great deal of money from the salaries the family got more than \$1.500,-600 from the time that John A. McCall shorted president up to 1966.

perhaps, will find time to be sworn in as

"I intend," he said, "to discharge every

udicial duty in complete accord with the

than is absolutely necessary to dispose of

There was further consideration yes-

Commission and the Board of Estimate

committee of the amount to be paid by

the Brooklyn Rapid Transit Company to

the joint use of the elevated lines in

Queens, which are to be built by the

It is said the Brooklyn Rapid Transi

took the attitude it should not pay any

thing to the Interborough. Presiden

ties hold the Brooklyn Rapid Teans!

should pay rental to the Interborough or

cars which the Interborough will run it

Queens. The first plan of the commission

Shonts balked at this. The city authori

Interborough and the city together.

all judicial business before taking up m

chairman of the Public Service Commis

sion some time to-night.

work that has taken other men years to his new office, he do who have labored on this matter for so item of judicial business that was before

be expected from you in he vigorously rejected the suggestion, declaring he wished and expected to spend As his decisions, he explained, are al In the afternoon Chairman Willcox said the remainder of his life on the bench ready to hand down, he does not antic hoped to sign them before he went out | tion and had even said it was abhorrent

pect that this work is going to come to | Justice McCall had about come to the any sudden stop when I go out. It will conclusion that consideration of his name go right along. It will be a question of: had been dropped when Governor Sulzer

"He presented his demand that I accept dictates of my conscience. There will be that he had no comment to make on the the appointment in such a way that I no undue haste in making the change. appointment. Other members of the could not well refuse," said the justice, know how pressing are the public needs, "Justice McCall is a distinguished man." to the bench, that the people wanted me

"Did any one else confer with you at I've got and add new ones to the number the time?" Justice McCall was asked.

Governor Alone Responsible. "Is it a fair question to ask whether pointment came from any one else except

the Governor?" "Unequivocally, no!" came the reply-This is an affair between the Governor and myself. As a matter of fact, the very few friends with whom I have consulted on the subject strongly advised me

After further consideration Justice Mc-Call acted as desired by the Governor, the ton mileage basis. The Brooklys and early yesterday afternoon sent his Rapid Transit maintains that if it has have gained by a casual reading of to Albany. It was accompanied by the the car mileage basis, as its subway following letter.

involving the Public Service law and he had never read it until he looked into certain features at the Executive Mansion in Albany a week ago Sunday.

Justice McCall said his understanding was that Governor Sulzer wanted him to take up his duties at the carliest possible minute. However, he expressed the hope that the contracts might be signed before he took office. But he did not know how long it would take to have the appointment confirmed. Insomuch as he has been a state officer, he thought possibly Senatorial courtesy would lead the Senate to confirm the appointment without sending it to the Finance Committee first, as is customary.

Who have measure, and will do what you refusal to accept, and will do what you wish.

I am leaving a work that I am devoted to, and in which, I hope. I have met, in some smail measure, that which was expected of me. I am severing companionships of the most devot 4 colleagues, whose great and unselfish endeavor and labor for their state and country will undoubtedly meet the full appreciation of the people, for whom they are striving, and in leaving them it tears at the heart strings, but I am left no alternative, and I shall send by the messenger who hears this letter my resignation as Supreme Court lustice and will take up the duties of my new assignment with the promise to you to devote all that I am possessed of in the way of energy and ability to the accomplishment of all of the duties that may devolve upon me.

With the warmest regards to you per-

upon me.
With the warmest regards to you personally. Very truly yours,
EDWARD E. M'CALL. Begged to Recall His Action.

After he had forwarded his resignation Justice McCall told his friends among the justices of the Supreme Court what be had done. They begged him to recall his action. Then they sent word to the Governor asking him not to send the appointment to the Senate until they had a chance of sending a delegation to Albany to beg him in person not to take Justice

If I were Governor I should remove such home, at No. 321 West 85th street, after the theatre last night, he found the following Asked if he would ask for any particular telegram from Governor Sulzer awaiting

Northern Pacific Ry Justice McCall said he was pleased to know the Senate acquiesced so quickly

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ANAWANDA CLUB'S BALL Murphy and Other Prominent

Tammany Men Attend.

The Anawanda Club, of the 12th Assen ly District, held its annual ball and reeption last night at the Lexington Opera House, No. 145 East 58th street. Charles made by Leavard E. Section of the and indorsed by you. Who got the money? A.—Andrew Hamilton.

Q.—What did he get it for? A.—Same general purposes, I suppose.

Q.—What general purposes? A.—For general purposes of his legislation and general purposes of his legislation and commission. Practically every Tammany

politicians were present. Among those present were: Judge Ed. ward E. McCall, the new Public Service Commissioner; Supreme Court JusticesGerard, Cohalan. Hendrick, Erlanger and Glegerich: James E. Gaffney, Judges Ed ward B. La Fetra and Michael F. Blake, adatice Joseph S. Moss, Fire Commisioner Johnson and Police Commissioner Waldo, along with Deputy Commissione Ditton, and Commissioners Drummond, of the Charities Department, and Whitney, of the Correction Department.



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